

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6264 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

K.H. QURESHI

Versus

A'BAD MUNICIPAL CORPORATION

Appearance:

MR AKIL KURESHI for the Petitioner - ABSENT
MR BP TANNA for Respondent No. 1
MR AY KOGJE for MR SV RAJU for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 19/03/99

ORAL JUDGEMENT

The petitioner seeks a direction on the respondent No.1 Municipal Corporation, from appointing the respondent No.2 to the post of Deputy Director (Parks and Gardens).

2. According to the petitioner, he obtained Diploma in Agriculture in the year 1960 and was thereafter, appointed as a Garden Inspector on 4.1.1965, from which post he came to be promoted as Section Officer on 16.3.1981 with the respondent No.1 Corporation. The respondent No.2, a degree holder in Agriculture was also a Section Officer with the Corporation in the said Department. In year 1978, posts of Director (P&G) and Deputy Director (P&G) were created and initially, the qualification required for these posts was B.Sc (Agriculture) plus seven years experience. In year 1978, Mr. V.G. Satodia, a Section Officer was appointed as Deputy Director (P&G). However, that post fell vacant from June, 1986, since Mr. Satodia came to be appointed as Director (P&G). According to the petitioner, the post of Deputy Director was required to be filled-in by selection and if that was not possible, then only by promotion. On 16.9.1986, the General Body of the Corporation approved a resolution of the Standing Committee, by which the qualification for the said post was changed to B.Sc (Agriculture) plus seven years experience or Diploma in Agriculture plus twelve years experience in garden section, instead of the then existing requirement of "B.Sc (Agriculture) plus seven years experience". According to the petitioner, in view of this change, he became qualified for appointment to the post of Deputy Director. The petitioner alleges that he had a specific information that the respondent No.2 was to be appointed as Deputy Director (P&G) without holding any interview or without giving any public notice for the post. It is alleged that the record of the respondent No.2 was unsatisfactory, while the record of the petitioner was satisfactory and therefore, he had a better claim over the said post.

3. The case of the respondent No.2 is that he was working in the Parks and Garden Department as Section Officer since 17 years and that he was the senior most Section Officer, while the petitioner was the junior most in the lower grade and he had put in only 5 years service as Section Officer. The respondent No.2 denied that there were adverse remarks in his confidential reports. According to him, he was considered competent and fit to be appointed as Director, by the regularly constituted selection committee when it placed him in the waiting list at serial No.1, next to Mr. Satodia, who came to be appointed as Director.

4. The learned Counsel who appears for the respondent No.2 has contended that the respondent No.2 has so far not been appointed to the higher post, perhaps

because of the pendency of this petition, though in the modified ad-interim order it was stated on 6.4.1988 that appointment of the respondent No.2 or that of any other person to the post in question shall be subject to the result of this petition. It is stated by the learned Counsel for the respondent No.2 that the petitioner has already retired from service about three years back. That perhaps explains as to why no one is present on behalf of the petitioner. The petition is based on a conjecture that proper procedure will not be followed in making appointment to the post of Deputy Director (P&G). The source of "specific information" which led the petitioner to file the petition, as stated in paragraph 4.9 of the petition, is not disclosed. According to the petitioner, he had information that without proper procedure the respondent No.2 will be appointed as Deputy Director (P&G). There was nothing authentic about this allegation and it is obvious that the petition was actuated only with a view to create hurdles, without there being any positive action taken on the part of the Corporation to appoint anyone to the said post. Needless to say that a Municipal Corporation can make appointments only by following the procedure that may have been prescribed for making the appointment. The petition when it was filed, was wholly premature and without any basis and even now, especially when the petitioner has already retired, it fails to make out any ground on the basis of which the relief which is sought, can be claimed. The petition is therefore, rejected. Rule is discharged with no order as to costs. Interim relief stands vacated.

*/Mohandas